

HOUSE BILL No. 1091

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-31-8-7.

Synopsis: Affirmative defenses in eviction actions. Allows a tenant or a member of a tenant's household to establish an affirmative defense to an action brought by a landlord to evict the tenant or the member of a tenant's household from a rental premises if the tenant or member of a tenant's household presents evidence that the landlord's action is substantially in response to the tenant or the member of a tenant's household engaging in or causing the occurrence of at least one of the following acts within 12 months before the date the landlord brought the action: (1) Making a good faith complaint or request for repairs concerning conditions or defects in the rental premises that the landlord is obligated to repair or maintain. (2) Making a good faith complaint to a government entity concerning the landlord's alleged violation of a health or safety law or any other regulation, code, ordinance, or state or federal law that regulates rental premises. (3) Causing a government entity to issue a formal complaint to a landlord concerning the rental premises rented by a tenant. (4) Making a good faith attempt to exercise, secure, or enforce any rights existing under a valid lease or rental agreement or state or federal law. (5) Making a good faith attempt to organize, join, or otherwise become involved with an organization promoting or enforcing the rights of tenants. Provides that a landlord may prevail in an eviction action under certain circumstances even if an affirmative defense is established.

Effective: July 1, 2016.

Shackleford

January 5, 2016, read first time and referred to Committee on Judiciary.



Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1091

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 32-31-8-7 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2016]: **Sec. 7. (a) If a landlord brings an action under this article**
4 **to evict:**

5 **(1) a tenant; or**

6 **(2) a member of a tenant's household;**

7 **from a rental premises, the tenant or the member of a tenant's**
8 **household may establish an affirmative defense as described in**
9 **subsection (b).**

10 **(b) A tenant or a member of a tenant's household may establish**
11 **an affirmative defense by presenting evidence that a landlord's**
12 **attempt to evict the tenant or the member of a tenant's household**
13 **is substantially in response to the tenant or the member of a**
14 **tenant's household engaging in or causing the occurrence of at least**
15 **one (1) of the following acts within twelve (12) months before the**
16 **date the landlord brought the action:**

17 **(1) Making a good faith complaint or request for repairs to:**



- 1 (A) the landlord;
- 2 (B) an employee of the landlord; or
- 3 (C) an agent of the landlord;
- 4 concerning conditions or defects in the rental premises that
- 5 the landlord is obligated to repair or maintain under section
- 6 5 of this chapter.
- 7 (2) Making a good faith complaint to a government entity
- 8 concerning the landlord's alleged violation of:
- 9 (A) a health or safety law; or
- 10 (B) any other regulation, code, ordinance, or state or
- 11 federal law that regulates rental premises.
- 12 (3) Causing a government entity to issue a formal complaint
- 13 to a landlord concerning the rental premises rented by a
- 14 tenant.
- 15 (4) Making a good faith attempt to exercise, secure, or enforce
- 16 any rights existing under:
- 17 (A) a valid lease or rental agreement; or
- 18 (B) state or federal law.
- 19 (5) Making a good faith attempt to:
- 20 (A) organize;
- 21 (B) join; or
- 22 (C) otherwise become involved with;
- 23 an organization promoting or enforcing the rights of tenants.
- 24 (c) Notwithstanding the establishment of an affirmative defense
- 25 under subsections (a) and (b), a landlord may prevail in the action
- 26 to evict the tenant or the member of a tenant's household if the
- 27 landlord can show at least one (1) of the following occurred or
- 28 would occur:
- 29 (1) The tenant breached:
- 30 (A) the covenant to pay rent; or
- 31 (B) any other substantial covenant of the lease for which
- 32 the tenant may be evicted;
- 33 and the breach is the reason for the eviction.
- 34 (2) If:
- 35 (A) a tenancy is for a fixed term; and
- 36 (B) the tenant does not have an option to renew the lease;
- 37 the tenant held over after expiration of the term.
- 38 (3) A violation of section 5 of this chapter complained of by
- 39 the tenant or the member of a tenant's household was caused
- 40 primarily by the willful or negligent conduct of:
- 41 (A) the tenant;
- 42 (B) the member of a tenant's household; or



- 1 (C) a guest or an invitee of the tenant or the member of a
- 2 tenant's household.
- 3 (4) Compliance with an applicable building or housing code
- 4 would require:
- 5 (A) the demolition of;
- 6 (B) a major alteration to; or
- 7 (C) the remodeling of;
- 8 a structure or part of a structure that cannot be accomplished
- 9 without completely displacing the tenant's household.
- 10 (5) The landlord seeks to recover possession of the rental
- 11 premises on the basis of a good faith notice to quit the rental
- 12 premises that was delivered to the tenant before the
- 13 occurrence of any of the activities described in subsection (b).
- 14 (6) The landlord seeks in good faith to recover possession of
- 15 the rental premises at the end of the tenant's term:
- 16 (A) for use as the landlord's own abode;
- 17 (B) to demolish or make major alterations or remodeling
- 18 of the rental premises in a manner that requires the
- 19 complete displacement of the tenant's household; or
- 20 (C) to terminate the use of the property as a rental
- 21 premises for at least six (6) months.
- 22 (d) If a tenant or a member of a tenant's household is the
- 23 prevailing party in an action in which the tenant or the member of
- 24 a tenant's household established an affirmative defense under this
- 25 section, the tenant or the member of a tenant's household may
- 26 obtain any of the following, if appropriate under the
- 27 circumstances:
- 28 (1) Recovery of the following:
- 29 (A) Actual damages and consequential damages.
- 30 (B) Attorney's fees and court costs.
- 31 (2) Injunctive relief.
- 32 (3) Any other remedy appropriate under the circumstances.

